APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,223	07/22/2003	Jeff Hodson	6065-88620	6950

24628   7590   07/10/2009
Husch Blackwell Sanders, LLP
Husch Blackwell Sanders LLP Welsh & Katz
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

EXAMINER
LU, CHARLES EDWARD

ART UNIT	PAPER NUMBER
2161	

MAIL DATE	DELIVERY MODE
07/10/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>30 June 2009</u>.

2a)☒ This action is FINAL.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
  closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-30</u> is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-30</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☐ All b)☐ Some * c)☐ None of:

  1.☐ Certified copies of the priority documents have been received.

  2.☐ Certified copies of the priority documents have been received in Application No. _____.

  3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
    application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1. This Action is in response to the Amendment dated 6/30/2009. Claims 1-30 are pending and rejected.

Response to Amendments/Response to Arguments

2. The 35 USC 101 rejection of claims 1-12 is withdrawn in view of the amendments to the claims. The 35 USC 103(a) rejections are withdrawn in view of the amendments to the claims. The new grounds of 35 USC 103 rejections presented below are necessitated by amendment.

3. Applicant further argues regarding the use of Eilbacher in claim 4 that Eilbacher does not teach counting the number of exchanges. The reasoning given in the prior Action is maintained because the broadest reasonable interpretation was given to the claim terminology.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. **Claims 1-2, 4-5, 7-9, 13-14, 16-17, 20-21, 23, 25-26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eilbacher et al (U.S. Patent 6,724,887), hereafter "Eilbacher," in view of Piolat et al. ("SCRIPTKELL: A tool for**

measuring cognitive effort and time processing in writing and other complex

cognitive activities"), hereinafter "Piolat."

As to claim 1, Eilbacher teaches the claimed subject matter including:

Compiling performance reports (col. 10, ll. 50-62) in a contact center (fig. 5,

#201) serving a plurality of clients (fig. 3, #100) using a plurality of agents (fig. 3, #104);

Opening a transaction file (col. 10, ll. 28-44) for saving information about

exchanges (col. 6, ll. 1-8) between an agent of the plurality of agents and a client of the

plurality of clients;

Measuring indicia of activity for asynchronous Internet transactions (e.g.,

satisfactory or unsatisfactory experience, col. 12, ll. 54-55, or various captured data, col.

10, ll. 27-44, including email communications, fig. 5, #202) for the exchanges between

the agent and client.

Adding the measured indicia of activity to the transaction file (col. 12, ll. 54-64,

col. 11, ll. 50-54, col. 10, ll. 27-61); and

Compiling a report based upon the transaction file (col. 9, ll. 57-67, col. 12, ll. 54-

64).

As to the teaching of asynchronous transactions, see fig. 5, #202 and related

description). An email transaction is asynchronous because it is an intermittent

transaction in which data is created and then transmitted, consistent with the description

in Applicant's specification (p. 10).

Eilbacher does not expressly teach an effort value, which represents effective

effort to respond to each transmission within each transaction, or wherein the effective

effort is calculated to reflect time to evaluate and prepare a response and is independent of total duration of actual transaction channel occupancy.

However, Eilbacher further discloses that communication can include e-mails and phone conversations between agent and client (fig. 5, col. 6, ll. 1-7). Many types of communications are analyzed (fig. 7). As discussed above, e-mails are asynchronous. Furthermore, responding to an email involves writing an email.

Piolat teaches or suggests measuring an effort value that represents effective effort allocated to writing, and the effective effort is calculated to reflect time to evaluate and prepare the writing and should be independent of total duration of actual transaction channel occupancy, because the focus is on the writing and controlled conditions related to the writing (e.g., Abstract, first page, right column, last paragraph, second page, first column).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Eilbacher, such that e-mail conversations are processed/analyzed like phone conversations, and writing is additionally analyzed such that an effort value involved in writing (the response) is recorded. The effort value would thus reflect effective effort associated to respond, and would be independent of total duration of transaction channel occupancy, as claimed. The motivation for using an effort value would have been to study and monitor a writer's (here, an agent's) behavior and performance, as taught throughout Piolat and known to one of ordinary skill in the art. For example, analyzing RT values would provide an indication of effort in writing,

and appropriate actions can be taken to optimize the writer's performance if necessary, as known to one of ordinary skill in the art.

As to claim 2, Eilbacher as applied above further teaches wherein the step of opening the transaction file further comprises detecting an initial contact between the agent and the client (e.g., caller initiated transaction, col. 9, ll. 10-20), and tagging subsequent transmissions as belonging to the transaction (col. 9, l. 10-50). Note that the tagging has to occur or else the system would not know what communications to group together into a customer experience (col. 9-10).

As to claim 4, Eilbacher as applied above further teaches wherein the step of measuring the indicia of activity further comprises counting a number of exchanges between the agent and the client (e.g., number of conversations or number of transfers, col. 10, ll. 13-17).

Eilbacher and Piolat do not expressly teach, "to close a sale."

However, Eilbacher teaches counting the number of exchanges in "cradle-to-grave" transactions (col. 10, ll. 4-17). "Cradle-to-grave" transactions can end when the agent completes a transaction (col. 9, l. 18). Since Eilbacher is drawn to customers of a call center, the transactions may be sale transactions (col. 1, l. 64, col. 2, l. 54, col. 7, l. 65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Eilbacher and Piolat, such that the agent's transactions are sales transactions. Therefore, when the agent completes a transaction, the agent closes a sale, which meets the claimed subject matter. The

motivation would have been to use Eilbacher in a sales environment, as known to one of ordinary skill in the art.

As to claim 5, Eilbacher as applied above further teaches wherein the exchanges comprise email (see fig. 5 and related text).

As to claim 7, Eilbacher and Piolat as applied above do not expressly teach how much time has elapsed between successive transmissions of each asynchronous transaction.

However, Eilbacher teaches a "wait time" col. 6, ll. 35-40 and measuring the amount of time a customer is on hold (see description for figs. 2-3). The time on hold can be an elapsed time between successive communications. Eilbacher also teaches recording start/end times for communication, and states that all data associated with customer-agent communication can be recorded (col. 8, ll. 50-65).

Since e-mail conversations are treated like phone conversations as discussed above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Eilbacher and Piolat, such that elapsed time between successive transmissions of email transactions are determined and recorded. The motivation would have been to facilitate customer experience analysis, taught by Eilbacher (col. 11, col. 6, ll. 35-40).

As to claims 8 and 9, Eilbacher as applied above further teaches segregating exchanges between the agent and client from other exchanges between other agents and other clients (Eilbacher, col. 10, ll. 36-44), and from other exchanges between the agent and the client (using a time stamp for an exchange between agent and client, col.

10, l. 37), further comprising correlating an identifier of the agent and client with the transaction file (i.e., customer and agent identification, col. 10, ll. 36-37). Since every transaction is marked by a time stamp, agent name, customer name, etc., each exchange is segregated from other exchanges between agents and other clients, as well as the agent and the client, because the other transactions are marked with different time stamps, agent names, and customer names.

Claims 13-14, 16-17, 20-21, 23, 25, and 28 are rejected based on the same reasoning as the above claims.

As to claim 26, Eilbacher as applied above further teaches "selection processor...initial contact" as seen in claim 2 above, and determining a type for each transaction, and attaching a time stamp to each transmission within a transaction (col. 10, ll. 27-45).

6. Claims 3, 10, 15, 19, 22, 24, 27, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eilbacher in view of Piolat, further in view of Ulrich (U.S. Patent 6,895,438).

As to claim 3, Eilbacher and Piolat as applied above teach identifying a prior contact of an agent involving the client (Eilbacher, col. 13, ll. 1-40, col. 5, ll. 22-25). Contacts of an agent are stored in a database (Eilbacher, col. 10, ll. 27-44).

Eilbacher and Piolat do not expressly teach wherein a prior contact list of the agent is searched to identify prior contacts, or wherein the searching is performed when the initial contact is detected between the agent and client.

However, Eilbacher teaches detecting initial contact (using cradle to grave recording, col. 9, ll. 14-20), and storing the agent's communications in a database (col. 10, ll. 28-44). The database stores the customer and the agent (col. 10, ll. 36-39), and marks unsatisfactory communications (col. 11, ll. 51-53).

Furthermore, Ulrich discloses a contact list (fig. 3A-3B).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Eilbacher and Piolat, such that unsatisfactory contacts with customers (Eilbacher, col. 11, ll. 51-53) are stored in the list. The motivation would have been to facilitate knowing if the agent had a previous conversation(s) with the customer (by searching a smaller list, instead of potentially the entire customer database), and to inform the agent when contact is established that he/she is speaking to a customer with a previous unsatisfactory experience, as taught by Eilbacher (col. 5, ll. 22-25). As such, the claim limitations would be met.

As to claim 10, Eilbacher and Piolat do not expressly teach wherein correlating an identifier of the agent and client with the transaction file further comprises matching e-mail addresses of the agent and client to e-mail addresses within the transaction file.

However, Ulrich teaches wherein correlating an identifier of the agent and client with the transaction file further comprises matching e-mail addresses of the agent and client to e-mail addresses within the transaction file (see fig. 3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Eilbacher and Piolat, such that the above

claimed subject matter is implemented. The motivation would have been to facilitate organization of data, as known to one of ordinary skill in the art.

As to claim 19, Eilbacher and Piolat do not expressly teach wherein word content of each exchange is used to determine whether different transactions are part of one or different transactions.

However, Ulrich teaches wherein word content of each exchange is used to determine whether different transmissions are part of one transaction or different transactions (see fig. 3, col. 7, ll. 45-55).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Eilbacher and Piolat, such that word content is used as claimed. The motivation would have been to facilitate organization of data, as known to one of ordinary skill in the art.

As to claim 24, Eilbacher and Piolat do not expressly teach correlating a subject matter identifier field of the exchanges with a subject matter identifier of the transaction file.

However, Ulrich teaches correlating a subject matter identifier field of the exchanges with a subject matter identifier of the transaction file (see fig. 3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Eilbacher and Piolat, such that the above correlation is accomplished. The motivation would have been to facilitate organizing data, as known to one of ordinary skill in the art.

As to claim 29, Eilbacher and Piolat teach an effort value, as discussed above, but do not expressly teach using proportionality to calculate an equivalent time of effort.

However, Ulrich teaches wherein an effort value is determined using proportionality to calculate an equivalent time of effort (e.g., col. 7, l. 35 – col. 8, l. 67, col. 10, l. 13 – l. 49). This equivalent time of effort is an equivalent time from the reader's perspective.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Eilbacher and Piolat, such that an equivalent time of effort is additionally calculated. The motivation would have been to provide a heuristic measure of who and what is consuming time and whether those demands on time are line with organizational priorities, as taught by Ulrich (col. 10, ll. 46-50).

Claims 15, 22, and 27 are rejected based on the same reasoning as the above claims.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eilbacher in view of Piolat, further in view of Armstrong (U.S. Patent 6,356,633).

As to claim 6, Eilbacher and Piolat do not expressly teach wherein the indicia of activity comprises an average time between messages of transactions for each agent.

However, Armstrong discloses an average time between messages of transactions for each agent (col. 10, ll. 4-11).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Eilbacher and Piolat, such that an average time

between messages is recorded. The motivation would have been to provide statistic

and reports for e-mail messages, as taught by Armstrong (col. 9, l. 64 – col. 10, l. 4).

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eilbacher in view of Piolat, further in view of McCalmont et al (U.S. Patent 5,621,789), hereafter "McCalmont."

As to claim 11, Eilbacher and Piolat teach completed transactions, as discussed

above, but do not expressly teach determining and displaying a total effort value

between the agent and client and determining in real time an ongoing transaction total

effort value for ongoing transactions.

However, McCalmont displays a total effort between agent and client in real time

(fig. 5b).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Eilbacher and Piolat, such that real time

statistics on total ongoing transaction effort between the agent and client are displayed.

The motivation would have been to indicate to the user the efficiency of his work, as

taught by McCalmont (col. 6, ll. 62-64).

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eilbacher in view of Piolat, further in view of McCalmont, further in view of Ulrich.

As to claim 12, Eilbacher, Piolat, and McCalmont do not expressly teach

correlating a subject matter identifier field of the exchanges with a subject matter

identifier of the transaction file.

However, Ulrich teaches correlating a subject matter identifier field of the exchanges with a subject matter identifier of the transaction file (see fig. 3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Eilbacher, Piolat, and McCalmont, such that the above correlation is accomplished. The motivation would have been to facilitate organizing message data, as known to one of ordinary skill in the art.

10. Claims 18 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eilbacher in view of Piolat, further in view of Ichbiah (U.S. Patent 5,623,406).

As to claims 18 and 30, Eilbacher and Piolat as applied above teach an effort value, as discussed above, but do not expressly teach wherein the effort value is determined based upon how long a transmission would have required had it been spoken, or based on the character length of the transmission.

However, telephone responses can be spoken, and e-mail responses can be typed. Ichbiah states that normal speech is about 100 words per minute, and a skilled typist can be expected to type at 40-70 words per minute (col. 1, II. 20-25). Typing at a certain number of words per minute is based on character length, since typed words have characters.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Eilbacher and Piolat, such that the email response time (effort value) is based on how long the email would have taken if it were spoken, or based on how long the email would have taken if it was typed by a skilled

typist [e.g., 70 words (characters) per minute]. The motivation would have to apply a

performance standard for email agents, as known to one of ordinary skill in the art. For

example, a call center might want to assume that typing an email deserves the same

amount of response time as speaking. Other call centers might want to account for the

fact that typing is slower than speaking.

Conclusion

11. Applicant's amendment necessitates new grounds of rejection.　Accordingly,

THIS ACTION IS MADE FINAL. See MPEP 706.07(a). Applicant is reminded of the

extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Charles E. Lu whose telephone number is (571) 272-

8594. The examiner can normally be reached on 8:30 - 5:00; M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Apu Mofiz can be reached at (571) 272-4080. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

/Charles E Lu/
Examiner, Art Unit 2161
7/10/2009

/Apu M Mofiz/

Supervisory Patent Examiner, Art Unit 2161